

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI**

In Re) Case No. 14-43393-399-13
) Chapter 13
WILLIE J. SURGEON, JR.,)
)
Debtor(s)) MOTION TO DISMISS
)
MISSOURI DEPARTMENT OF REVENUE,) Response due: October 13, 2014
)
Movant,)
)
WILLIE J. SURGEON, JR.,) Susan L. Lissant
) Missouri Department of Revenue
) 301 West High Street, Room 670
) Jefferson City, MO 65105
Respondent(s)) Missouri Bar # 56970
) Federal District Bar #: Exempt

MOTION TO DISMISS FOR FAILURE TO FILE TAX RETURN AND NOTICE

PLEASE TAKE NOTICE: ANY RESPONSIVE PLEADING IN OPPOSITION TO THIS MOTION MUST BE FILED IN WRITING NO LATER THAN TWENTY- ONE (21) DAYS FROM THE DATE OF SERVICE OF THIS MOTION AS SHOWN IN THE CERTIFICATE OF SERVICE. (See L.B.R. 9013-1 B., 9061-1 B.) THE RESPONSE MUST BE IMMEDIATELY SERVED UPON THE UNDERSIGNED AND UPON ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A. THE COURT MAY GRANT THE MOTION WITHOUT FURTHER NOTICE TO ANY PARTY UPON EXPIRATION OF THE RESPONSE PERIOD IF NO RESPONSE IS FILED.

IF A RESPONSE OR OBJECTION IS FILED, THE MOVANT SHALL SET THE MATTER FOR HEARING AND PROVIDE NOTICE THEREOF TO THE RESPONDENT AND ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A.

COMES NOW the Missouri Department of Revenue, a Creditor herein, and states to the Court as follows:

1. Debtor filed this bankruptcy proceeding on April 27, 2014.
2. Debtor failed or refused to file a tax return for the following year: 2011. Any tax due for year 2011 is entitled to priority pursuant to 11 U.S.C. § 507(a)(8).
3. This tax return will provide the Missouri Department of Revenue with information necessary for the completion and filing of claims in this bankruptcy proceeding.
4. Debtor's failure to file the aforementioned tax return constitutes an unreasonable delay which is prejudicial to the Missouri Department of Revenue and is grounds for dismissal under 11 U.S.C. § 1307(c)(1). Further, the court pursuant to 11 U.S. C. § 105(a) is given power to issue any

order necessary or appropriate to enforce or implement the provisions of Title 11 of the United States Code.

5. The continuation of the bankruptcy estate without the filing of the tax return is not in the best interest of the creditors of this estate; is in violation of the laws of the State of Missouri; and would inequitably treat the State of Missouri by preventing it from receiving the payments to which it is entitled under the Bankruptcy Code.

6. Upon the filing of the above-mentioned tax return or notarized affidavit stating sufficient cause for the non-filing of said return, the Missouri Department of Revenue will withdraw this motion.

WHEREFORE, the Missouri Department of Revenue prays for an order dismissing Debtor's Chapter 13 proceeding, and for such other relief as the Court deems just and proper.

Chris Koster, Attorney General
State of Missouri

By: /s/ Susan L. Lissant
Susan L. Lissant, MO Bar #56970
Federal District Bar #: Exempt
Special Assistant Attorney General
Missouri Department of Revenue
General Counsel's Office
301 W. High Street, Room 670
P.O. Box 475
Jefferson City, MO 65105-0475
(573) 751-5531 FAX (573) 751-7232
E-mail: edmoecf@dor.mo.gov
Attorney for Department of Revenue

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion to Dismiss was sent through the Court's ECF system or by ordinary mail, on September 22, 2014 to the following:

James R. Brown
500 N. Broadway, Ste. 1400
St. Louis, MO 63102

Willie J. Surgeon, Jr.
1432 Glenmeade Drive
Maryland Heights, MO 63043

/s/ Susan L. Lissant